

# **2014 ANNUAL TOWN MEETING MOTIONS**



Saturday, March 22, 2014  
Abbot School Gymnasium

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**REPORTS**

**ARTICLE 1: Accept Town Reports**

*Town Manager*

**Motion:** *(Majority Vote Required)*

That the Town accept the Reports of Town Officers, Boards and Committees for the Fiscal Year 2013.

*Selectmen recommend*

**FINANCIAL - FISCAL YEAR 2014**

**ARTICLE 2: Approve Unpaid Bills from Previous Fiscal Year(s)**

*Town Manager*

**Motion:** *(Majority Vote Required)*

That the Town dismiss this article.

*Selectmen recommend dismissal and Finance Committee recommend dismissal*

**ARTICLE 3: Approve Fiscal Year 2014 Supplemental Appropriations**

*Town Manager*

**Motion:** *(Majority Vote Required)*

That the Town appropriate from Free Cash the sum of \$109,552 (ONE HUNDRED NINE THOUSAND FIVE HUNDRED FIFTY TWO DOLLARS) in order to supplement the following Fiscal Year 2014 Operating Budgets:

442 Wastewater Treatment Management Expenses	\$106,702.00
491 Cemetery Personal Services	\$2,850.00

*And further*

In accordance with the Joint Labor Management Committee arbitration award for Fiscal Year 2012 to Fiscal Year 2014 and received on February 27, 2014, that the Town appropriate from Free Cash the sum of \$67,874 (SIXTY SEVEN THOUSAND EIGHT HUNDRED SEVENTY FOUR DOLLARS) in order to supplement the following Fiscal Year 2014 Operating Budget:

220 Fire Department Personal Services	\$67,874.00
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*And further*

In accordance with the Joint Labor Management Committee arbitration award for Fiscal Year 2012 to Fiscal Year 2014 and received on February 27, 2014, that the Town appropriate from ambulance enterprise retained earnings the sum of \$25,235 (TWENTY FIVE THOUSAND TWO HUNDRED THIRTY FIVE DOLLARS) in order to supplement the following Fiscal Year 2014 Operating Budget:

640 Ambulance Enterprise Personal Services	\$25,235.00
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*Selectmen recommend and Finance Committee recommends*

*And further*

That the Town appropriate from Free Cash the sum of \$71,970 (SEVENTY ONE THOUSAND NINE HUNDRED SEVENTY DOLLARS) in order to fund the following labor agreements for Fiscal Year 2014:

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CWA: Communication Workers of America	\$43,745.00
WPWA: Westford Public Works Association	\$28,225.00

*Selectmen recommend and Finance Committee to make recommendation on Town Meeting floor*

<b>ARTICLE 4:</b>	<b>Approve Fiscal Year 2014 Budget Transfers</b>	<i>Town Manager</i>
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**Motion:** (Majority Vote Required)  
That the Town dismiss this article.

*Selectmen recommend dismissal and Finance Committee to make recommendation on Town Meeting floor*

<b>ARTICLE 5:</b>	<b>Appropriate for Perchlorate Expenses</b>	<i>Town Manager</i>
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**Motion:** (Majority Vote Required)  
That the Town appropriate from Free Cash the sum of \$250,000 (TWO HUNDRED FIFTY THOUSAND DOLLARS) for the purpose of providing funds to address associated issues regarding perchlorate contamination.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 6:</b>	<b>Establish Health Insurance Stabilization Fund</b>	<i>Town Manager</i>
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**Motion:** (2/3 Majority Vote Required)  
That the Town accept the provisions of Massachusetts General Laws Chapter 40 Section 5B in order to establish a Health Insurance Stabilization Fund and to appropriate from Free Cash the sum of \$500,000 (FIVE HUNDRED THOUSAND DOLLARS) to be deposited into said stabilization fund.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 7:</b>	<b>Appropriate from Insurance Receipts Reserved for Repairs to the Roudenbush Buildings Located at 65 Main Street, 73 Main Street, and 170 Plain Road</b>	<i>Board of Selectmen</i>
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**Motion:** (Majority Vote Required)  
That the Town appropriate from insurance receipts reserved in accordance with Massachusetts General Laws Chapter 44, Section 53 the sum of \$45,194 (FORTY FIVE THOUSAND ONE HUNDRED NINETY FOUR DOLLARS) for repairs to the Roudenbush buildings located at 65 Main Street, 73 Main Street, and 170 Plain Road.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 8:</b>	<b>Appropriate from Sale of Cemetery Lots Receipts Reserved for Cemetery Improvements</b>	<i>Cemetery Commission</i>
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**Motion:** (Majority Vote Required)  
That the Town appropriate from sale of cemetery lots receipts reserved in accordance with Massachusetts General Law Chapter 114, Section 15 the sum of \$75,000 (SEVENTY FIVE THOUSAND DOLLARS) for care, improvements and embellishments, or the enlargement of the cemetery at Fairview and Pine Grove Cemeteries.

*Selectmen recommend and Finance Committee recommends*

**CAPITAL APPROPRIATIONS – FISCAL YEAR 2014****ARTICLE 9: Approve Capital Appropriations***Capital Planning Committee***First Motion:** *(Majority Vote Required)*

That the Town appropriate from Free Cash the sum of \$1,915,665 (ONE MILLION NINE HUNDRED FIFTEEN THOUSAND SIX HUNDRED SIXTY FIVE DOLLARS) to provide for the following capital requests and costs incidental and related thereto:

<b>DEPARTMENT</b>	<b>AMOUNT</b>	<b>PURPOSE</b>
Town Manager	\$99,005	Town building security improvements
Technology	\$325,000	School computer replacement
Technology	\$34,000	Town computer replacement
Technology	\$40,000	Network upgrades
Technology	\$25,000	Server & storage replacements
Police	\$15,500	Five (5) portable radios
Fire	\$50,000	Four (4) thermal imaging units
Fire	\$13,160	Hose replacement
Schools	\$30,000	Courier van replacement
Schools	\$42,000	1-Ton truck replacement
Schools	\$75,000	Abbot intercom system
Schools	\$30,000	Blanchard intercom system
Schools	\$35,000	Robinson intercom system
Highway	\$70,000	Two (2) pickup trucks
Highway	\$110,000	Bobcat with trailer
Highway	\$220,000	4x4 Six-wheel plow truck
Highway	\$85,000	Swap Loader Asphalt Patch Body
Highway	\$225,000	Main Street Road Design
Highway	\$250,000	Road Maintenance
Wastewater Management	\$100,000	Wastewater Treatment Plant Upgrades
Cemetery	\$13,000	Mower
Parks & Grounds	\$16,000	John Deere Tractor with loader
Parks & Grounds	\$13,000	Infield groomer

*And further*

That the Town appropriate from water enterprise retained earnings the sum of \$310,000 (THREE HUNDRED TEN THOUSAND DOLLARS) to provide for the following capital requests and costs incidental and related thereto:

<b>DEPARTMENT</b>	<b>AMOUNT</b>	<b>PURPOSE</b>
Water Enterprise	\$150,000	Standby generators at the Nutting Road and Depot Street. pump stations
Water Enterprise	\$70,000	Disinfection equipment at the Nutting Road and Forge Village Road water treatment plants
Water Enterprise	\$75,000	Main Street water main replacement design
Water Enterprise	\$15,000	Water building security upgrades

**Second Motion:** (2/3 Majority Vote Required)

That the Town appropriate the sum of \$400,000 (FOUR HUNDRED THOUSAND DOLLARS) to be expended at the direction of the Water Commissioners, for the purpose of making water system improvements on Graniteville Road from Main Street to Patriot Lane, including all costs incidental and related thereto; and that to meet this appropriation, the Town Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow said amount under and pursuant to Chapter 44 Sections 7 or 8 of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor;

*And further*

That the Town appropriate the sum of \$660,000 (SIX HUNDRED SIXTY THOUSAND DOLLARS) to be expended at the direction of the Water Commissioners, for the purpose of making water system improvements on Pleasant Street from Abbot Street to Pine Street, including all costs incidental and related thereto, and that to meet this appropriation, the Town Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow said amount under and pursuant to Chapter 44 Sections 7 or 8 of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

*And further*

That the Town appropriate from Free Cash the sum of \$850,000 (EIGHT HUNDRED FIFTY THOUSAND DOLLARS) and transfer said amount to the capital stabilization fund.

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 10: Nashoba Valley Technical High School MSBA Roof Project**

*Nashoba Valley Technical High School Committee*

**Motion:** (Majority Vote Required)

That the Town hereby approves the sum of \$2,802,362 (TWO MILLION EIGHT HUNDRED TWO THOUSAND THREE SIXTY TWO DOLLARS) borrowing authorized by the Nashoba Valley Technical School District, for the purpose of paying costs of the Accelerated Roof Repair Project at the Nashoba Valley Technical High School, located at 100 Littleton Road, Westford Massachusetts, including the payment of all costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of Nashoba Valley Technical School Committee; that the Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that District may receive from the MSBA for the Project shall not exceed the lesser of (1) fifty-two point twenty six percent (52.26%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA.

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 11: Robinson School and Day School MSBA Project**

*School Committee*

**Motion:** (2/3 Majority Vote Required)

That the Town appropriate and borrow the sum of \$4,101,750 (FOUR MILLION ONE HUNDRED ONE THOUSAND SEVEN HUNDRED FIFTY DOLLARS) to be expended under the direction of the School Committee, in conjunction with management oversight by the Permanent Town Building Committee, for additional funds for completing the design, bidding and construction phases of two window and door replacement projects, including associated cost which consists of, but is not limited to, hazardous material removal/abatement/encapsulation as well as requirements as stipulated by the Massachusetts Energy Code, Architectural Access Board (ADA) and Massachusetts Building Code at the Colonel John Robinson School located at 60 Concord Road and the Norman E. Day School located at 75 East Prescott Street, and any related costs, which proposed repair projects would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program and for which the Town has applied for a school construction grant from the Massachusetts School Building Authority ("MSBA"). The Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and if the MSBA's Board of Directors votes to invite the Town to collaborate with the MSBA on this proposed repair project, any project costs the Town incurs in excess of any grant that may be approved by and received from the MSBA shall be the sole responsibility of the Town, and that if invited to collaborate with the MSBA on the proposed repair project, the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the project funding agreement that may be executed between the Town and the MSBA.

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 12: Approve Fire Department Center Station Study**

*Board of Selectmen*

**Motion:** (Majority Vote Required)

That the Town appropriate from Free Cash the sum of \$50,000 (FIFTY THOUSAND DOLLARS) for professional services to recommend concepts for reconfiguration, relocation or reconstruction of the center station and examine the feasibility of consolidating emergency communications operations and relocation of the Technology Department currently located in the former Forge Village substation into the Center Station.

*Selectmen recommend and Finance Committee recommends*

**COMMUNITY PRESERVATION FUNDS**

**ARTICLE 13: Community Preservation Committee Recommendations**

*Community Preservation Committee*

**Motion:** (Majority Vote Required)

That the Town, pursuant to Massachusetts General Laws, Chapter 44B, or any other enabling authority, in accordance with the recommendations of the Westford Community Preservation Committee, appropriate from Community Preservation Funds the sum \$660,931 (SIX HUNDRED SIXTY THOUSAND NINE HUNDRED THIRTY ONE DOLLARS) as follows:

\$186,059	From Undesignated Fund Balance To the Community Housing Reserve This allocation more than covers the required 10% for Community Housing	Community Housing Reserve
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\$150,000	From Undesignated Fund Balance To the Conservation Trust Fund for future land purchases and any other related costs.	Conservation Commission
\$165,000	From Undesignated Fund Balance For the design funding for safety and accessibility improvements to the historic building located at 65 Main Street and any other related costs.	Historical Commission
\$77,872	From Undesignated Fund Balance For the restoration and preservation of stained glass windows & frames at the historic United Methodist Church at Graniteville and any other related costs.	United Methodist Church of Westford (UMCW)
\$35,000	From Undesignated Fund Balance For the Recreation Master Plan and any other related costs.	Parks & Recreation Commission
\$47,000	From Undesignated Fund Balance For the Healthy Lakes & Ponds Program Plan and any other related costs.	Healthy Lakes & Ponds Collaborative

*Selectmen recommend and Finance Committee recommends*

**FINANCIAL – FISCAL YEAR 2015**

**ARTICLE 14: Amend the Wage and Classification Plan**

*Town Manager*

**Motion:** (Majority Vote Required)

That the Town amend the Pay Classification Plan for non-unionized municipal employees, effective July 1, 2014 as follows:

Position	Current Band	Min	Mid	Max	New Band	Min	Mid	Max
<b>Administrative Assistant, HR</b>	Band 1	\$35,554	\$43,208	\$50,862	<b>Band 2</b>	<b>\$39,819</b>	<b>\$48,391</b>	<b>\$56,963</b>
<b>Health Director</b> <i>formerly Director of Health Care Services</i>	Band 6	\$60,978	\$74,106	\$87,233	<b>Band 7</b>	<b>\$66,468</b>	<b>\$80,777</b>	<b>\$95,085</b>
<b>Public Health Nurse</b>	Band 3	\$44,599	\$54,199	\$63,799	<b>Band 4</b>	<b>\$49,950</b>	<b>\$60,704</b>	<b>\$71,458</b>

*Selectmen recommend, Finance Committee recommends, and Personnel Advisory Committee recommends*

**ARTICLE 15: Authorize Revolving Funds**

*Town Manager*

**Motion:** (Majority Vote Required)

That the Town authorize revolving funds for the Fiscal Year July 1, 2014 - June 30, 2015, under the provisions of [Massachusetts General Laws Chapter 44, Section 53E ½](#) for the following:



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<b>Revolving Account</b>	<b>Spending Authority</b>	<b>Revenue Source</b>	<b>Allowed Expenses</b>	<b>Expenditure Limits</b>	<b>Year End Balance</b>
Lease of Town Buildings: 65 & 73 Main St & 170 Plain Rd	Board of Selectmen	Lease payment and other revenues from leased properties	Costs associated with maintenance, repairs and improvements to the leased properties	\$550,000	Available for expenditure next year
Recycling Revolving	Recycling Commission	Sale of bins	Purchase of recycling supplies	\$20,000	Available for expenditure next year
Recreation Field Maintenance	Recreation Commission	Field user fees/permits	Field maintenance, hiring of necessary personnel and consulting services	\$150,000	Available for expenditure next year
Senior Center Fitness Room	Council on Aging	Fees and gifts received for the Fitness Room	Fitness room maintenance supplies, equipment warranties, training, monitoring and purchase of replacement fitness equipment	\$75,000	Available for expenditure next year
Senior Center Programs	Council on Aging	Program fees	Costs associated for the operation of activities for Cameron to include supplies and wages	\$50,000	Available for expenditure next year
School Parking	School Department	Parking fees	Maintenance and expansion of parking facilities	\$30,000	Available for expenditure next year
School Bus/Transportation	School Department	User bus fees	Student transportation costs	\$618,289	Available for expenditure next year
East Boston Camps Maintenance	Conservation Commission	Revenue received for the lease, rental or licensing of camp facilities and donations received for the support of the East Boston Camps property	Costs associated for the operation and maintenance of the East Boston Camps property	\$50,000	Available for expenditure next year
Stormwater Revolving Fund	Planning Board	Peer review fees from applicants for stormwater management permits	Third party consultant review of stormwater management permits and/or construction inspection	\$20,000	Available for expenditure next year
Immunizations and Clinical Services	Board of Health	Fees received for immunizations and clinical services	costs of supplies and technical services for immunization and clinical programs	\$25,000	Available for expenditure next year

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 16: Approve Fiscal Year 2015 Operating Budget**

*Town Manager*

**Motion:** *(Majority Vote Required)*

That the Town raise and appropriate the sum of \$102,050,389 (ONE HUNDRED TWO MILLION FIFTY THOUSAND THREE HUNDRED EIGHTY NINE DOLLARS) for the operation and maintenance of Town Departments for the Fiscal Year July 1, 2014 through June 30, 2015, such sums to be expended for such purposes under the direction of the respective town officers, boards and committees and further that all items be raised and appropriated except for the following:

Fund 240 Community Preservation Fund: \$887,023 shall be appropriated from Community Preservation Fund Fiscal 2015 Revenue;

Fund 270 Receipts Reserved for Appropriation: \$10,000 shall be appropriated from Conservation Wetlands Fees;

Fund 280 Town Revolving Funds: \$15,000 shall be appropriated from Recreation Field Maintenance Revolving 53 E ½;

Fund 600 Water Enterprise Fund: \$3,658,000 shall be appropriated from Water Enterprise Revenue and \$1,116,205 shall be appropriated from Water Enterprise Retained Earnings;

Fund 630 Recreation Enterprise Fund: \$1,128,013 shall be appropriated from Recreation Enterprise Revenue and \$35,000 shall be appropriated from Recreation Enterprise Retained Earnings;

Fund 640 Ambulance Enterprise Fund: \$700,000 shall be appropriated from Ambulance Enterprise Revenue and \$50,000 shall be appropriated from Ambulance Enterprise Retained Earnings.

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 17: Appropriate Chapter 90 Local Transportation Funds for Roadway Maintenance**

*Board of Selectmen*

**Motion:** *(Majority Vote Required)*

That the Town appropriate a sum of money from the proceeds due to the Town under the provisions of [Massachusetts General Laws Chapter 90](#).

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 18: Approve Economic Development Incentive Program Project – Cynosure, Inc.**

*Board of Selectmen*

**Motion:** *(Majority Vote Required)*

That the Town approve the application for the Economic Development Incentive Program (EDIP) Local Incentive Program, and approve the Tax Increment Financing (TIF) Agreement between the Town and Cynosure, Inc. to be included in said application, substantially in the form as is on file with the Town Clerk and posted on the Town web site at least 14 days before Town Meeting as required by Chapter 51 of the General Bylaws (the "TIF Agreement"), pursuant to Massachusetts General Laws Chapter 23A and Chapter 40 Section 59; and to authorize the Board of Selectmen to submit a TIF Plan, designate a TIF Zone and an Economic Opportunity Area at 3-5 Carlisle Road (Map 17 Parcel 80), and make applications to the Massachusetts Economic Assistance Coordinating Council relating to the

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project as described in the TIF Agreement and to take such other actions as may be necessary to obtain approval of the TIF Plan, TIF Zone, the Economic Opportunity Area and to implement the TIF Agreement.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 19:</b>	<b>Accept Massachusetts General Laws Chapter 73, Section 4 of the Acts of 1986, as Amended by Chapter 126 of the Acts of 1988 Related to Property Tax Exemption Increase by 100% for the Blind, Elderly and Disabled Veterans</b>	<i>Board of Assessors</i>
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**Motion:** (Majority Vote Required)

That the Town accept the provisions of [Massachusetts General Laws Chapter 73, Section 4 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988](#), by providing for additional property exemptions for qualified residents who may be blind, elderly, surviving spouses or minors, or who are disabled veterans, and to continue the present percentage increase of 100%.

*Selectmen recommend and Finance Committee recommends*

**ADMINISTRATIVE**

<b>ARTICLE 20:</b>	<b>Authorize Library Trustees to Pursue and Accept State Grants</b>	<i>Board of Library Trustees</i>
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**Motion:** (Majority Vote Required)

That the Town grant the Trustees of the J. V. Fletcher Public Library the authority to apply for, accept, and expend any state grants which may be available for a feasibility study for the current and future needs of the J. V. Fletcher Public Library.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 21:</b>	<b>Authorize Amendment to Contract for Solid Waste Collection and Transportation</b>	<i>Board of Selectmen</i>
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**Motion:** (Majority Vote Required)

That the Town will vote to authorize the Board of Selectmen to enter an Amendment to the Service Agreement between the Town of Westford and Acme Waste Services Inc. with an effective date of July 1, 2010, for the collection and transportation of solid waste, said amendment extends the term of the Service Agreement from five years to eight years so that the Service Agreement will expire on June 30, 2018, on such terms and conditions as the Board of Selectmen determine to be in the best interests of the Town.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 22:</b>	<b>Authorize Board of Selectmen to Accept Easements</b>	<i>Board of Selectmen</i>
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**Motion:** (Majority Vote Required)

That the Town authorize the Board of Selectmen, during Fiscal Year 2015, to accept any and all easements for sidewalk, drainage, or other utility purposes, as they may deem in the Town's best interests.

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 23: Establish Annual Fee for the Licensing of Dogs**

*Board of Selectmen*

**Motion:** *(Majority Vote Required)*

That the Town establish the annual fee for the licensing of dogs in the following amounts: \$15 for each spayed or neutered dog and \$20 for each intact dog.

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 24: World Flag Resolution**

*Citizen Petition*

**Motion:** *(Majority Vote Required)*

WHEREAS:

The World Flag is intended to heighten awareness of the responsibility of all people to manage global resources in a sustainable way, regardless of an individual's country of origin, cultural background, spoken language, or religion and,

WHEREAS:

The world's ecosystem knows no sovereignty; we share the resources of the Earth with other living things that rely on us to preserve these resources; when we care for the world's land, water and air in responsible ways, we take steps to preserving our beautiful planet and,

WHEREAS:

The World flag has been designed and patented by a Westford resident Dr. Chaitanya Hiremath to represent two unique characteristics about planet Earth, the environment and the richness of life, which are interconnected in an intricate and a fragile way; the universal symbol serves as a reminder of our individual and our collective responsibilities and,

WHEREAS:

The World Flag was born in Westford, first released on April 14, 2011 during the World Fest Event at the Crisafulli School and,

WHEREAS:

SEALOEARTH (pronounced as, seal-o-earth), which stands for "Serene Environment And Life On Earth", is a Westford-grown 501c3 non-profit organization now with a global presence and its vision is a world in which all people participate in the stewardship of planet Earth,

THEREFORE BE IT RESOLVED:

That the voters of Westford adopt this World Flag and show their support for the flying of the World Flag at the Crisafulli School and on Earth Day on the Westford Common.

*Selectmen to make recommendation on Town Meeting floor*

**ARTICLE 25: Authorize Board of Selectmen and Historical Commission to Grant Preservation Restriction on the Town Museum and Cottage Buildings Located at 2 - 4 Boston Road**

*Board of Selectmen*

**Motion:** *(Majority Vote Required)*

That the Town authorize the Board of Selectmen and the Westford Historic Commission to grant a perpetual historic preservation restriction, pursuant to the provisions of G.L. Chapter 184, Sections 31-32, encumbering certain property and the buildings thereon, located at 2-4 Boston Road, shown on Assessor's Map 55 as Lot 13, and described in a deed recorded with the Middlesex North Registry of Deeds in Book 558, Page 227, Westford, said restriction to be upon the land, the exterior and interior of the building known as the Westford Museum and on the exterior only of the building known as the Fire Department Cottage, to the Commonwealth of Massachusetts, by and through the Massachusetts

Historical Commission, on such terms and conditions, and for such consideration, as the Board of Selectmen deems appropriate.

*Selectmen recommend and Finance Committee to make recommendation on Town Meeting floor*

### GENERAL BYLAW AMENDMENTS

#### **ARTICLE 26: Amend Chapter 61: Hazardous Materials Storage Bylaw**

*Board of Health*

**Motion:** *(Majority Vote Required)*

That the Town delete and replace the General Bylaw Chapter 61: Hazardous Materials Storage, as set forth below:

#### **Ch. 61: Hazardous Materials Storage**

[Adopted 6-28-82 AdjATM Art. 16, as amended. Replaced 5-13-97 AdjATM Art. 33.

Amended 11-12-2002 STM Art. 16.]

##### **§61.1. Authority.**

This bylaw is adopted by the Town of Westford under its home rule powers; its police powers to protect the public health, safety, and welfare and its authorization under M.G.L. ch. 40 §21(1).

##### **§61.2. Purpose.**

The purpose of this bylaw is to protect, preserve, and maintain the existing and potential groundwater supply, groundwater recharge areas, surface waters, air quality and natural environment within the Town of Westford from contamination, and to protect public health and safety. Nothing in this bylaw shall be construed as inconsistent with, or in interference with, the authority vested upon the Fire Chief under M.G.L. ch. 148, the Board of Health under M.G.L. ch. 111, or any other entity in accordance with applicable federal, state or local laws, rules and regulations, including but not limited-to the provisions of the Massachusetts Contingency Plan (MCP) 310 CMR 40.0000.

##### **§61.3. Definitions.**

The following definitions shall apply in the interpretation and implementation of this bylaw:

**Abandoned** means being out of service for a period in excess of 180 days, in the case of a tank or storage facility for which a license is required under the provisions of M.G.L. ch. 148, or for a period of 12 months, in the case of any other tank or storage facility.

**Above-ground storage tank (AST) or storage facility** shall mean any tank or storage facility, whether inside or outside a building, without backfill over the sides of the tank. A fuel oil tank contained within a building or vault, including a cellar, is considered to be an above-ground tank.

**Board of Health** shall mean the Board of Health of the Town of Westford and/or its Agent.

**CASRN** shall mean Chemical Abstract Service Registry Number, which is a unique numerical designation assigned to each chemical substance described in the open literature. The CASRN can be found on the MSDS.

**Container** means any portable device in which hazardous materials or wastes or special wastes are stored, transported, treated, disposed of or otherwise handled.

**CFR** means Code of Federal Regulations.

**CMR** means the Code of Massachusetts Regulations.

**Discharge** means the disposal, deposit, injection, dumping, spilling, leaking, escape, incineration, or placing of any hazardous material or any constituent thereof into or on any land or water so

that such material may enter the environment or be emitted into the ambient or indoor air, a drywell, catch-basin, landfill, sewage system, or discharged into any waters, including groundwater.

**Double-walled tank** means a container with two complete shells, which provide both primary and secondary containment. The container shall have continued 360 degrees interstitial space between the primary and secondary shells. The interstitial space shall be designed so that an approved interstitial space monitor is able to continuously monitor this space. All double-walled tanks shall be UL-listed.

**Facility** means a commercial, industrial, retail, institutional or municipal establishment, including a home business that requires a permit in accordance with this Bylaw.

**Fire Chief** means the Fire Chief of the Town of Westford and shall include any designee of the Fire Chief.

**Flood Zone** means the 1% annual flood zone (commonly referred to as the 100-year flood zone) as depicted on the most current Flood Insurance Rate Maps (FIRM) and/or by other document/amendment recognized by the Federal Emergency Management Agency (FEMA).

**Groundwater Protection Area** means areas identified as Zones I and II in the Water Resource Protection District (WRPD) in the Town of Westford Zoning Bylaw and the area within a 100-foot radius of private drinking water wells.

**Hazardous Materials** means any substance or mixture of physical, chemical, infectious, flammable, combustible, radioactive, genotoxic, carcinogenic or toxic characteristics posing a significant actual or potential hazard to water supplies, air or land or other hazards to human health, safety and welfare if such substance or mixture were discharged to land, water or into the air. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under M.G.L. ch. 21C and 21E and 310 CMR 40.000.

**Hazardous Waste** means any substance included on the Massachusetts Oil and Hazardous Materials List (MOHML), 310 CMR 40.1600, when disposed of as a waste.

**Health Department** means the Health Department of the Town of Westford.

**Label** means any written, printed, or graphic material displayed or affixed to containers of toxic or hazardous materials.

**Hazardous Waste Generator** means any person or site whose processes and actions create hazardous waste (see 40 CFR 260.10).

**Hazardous Material User** means any commercial enterprise, government agency, owner or operator that utilizes hazardous materials for any purposes.

**MassDEP** means the Massachusetts Department of Environmental Protection

**MOHML** or Massachusetts Oil and Hazardous Materials List compiles reportable concentrations and reportable quantities of chemicals and is found at 310 CMR 40.1600.

**MSDS** means the most current version of the Material Safety Data Sheet, which defines any written or printed material concerning a hazardous chemical-and which is prepared in accordance with 29 CFR 1910.1200(g).

**Owner** means any person or legal entity with legal ownership of a site or facility and/or business.

**Operator** means the lessee or person(s) in control of and having responsibility for the daily operation of a facility for the storage and dispensing of toxic and hazardous materials.

**Out of service** means not in use, with no regular filling or drawing; or not being maintained, without adherence to the requirements of this bylaw; or uncontrolled, without being attended or secured; or any combination thereof.

**Person in Charge (PIC)** means the individual present at a facility who is responsible for the operation.

**Release** means any uncontrolled movement of any hazardous material out of a tank or storage facility or its components, or any uncontrolled movement of water into a tank or storage facility or its components, measured as set forth in 527 CMR 9.00.

**Reportable discharge** means the quantity of a specific material under the Massachusetts Contingency Plan, 310 CMR 40.0000 that must be reported to MassDEP; the threshold quantity above which a spill or release of oil or a hazardous material must be reported to the MassDEP.

**Residential/Residence** refers to buildings occupied for living purposes.

**Site** means a commercial, private, retail, or school establishment and/or property/parcel.

**Storage Facility** means an area where hazardous materials are stored until it can be transported to a treatment facility.

**Special Waste** means any solid waste that is determined not to be a hazardous waste pursuant to 310 CMR 30.000 and that exists in such quantity or in such chemical or physical state, or any combination thereof, so that particular management controls are required to prevent an adverse impact from the collection, transport, transfer, storage, processing, treatment or disposal of the solid waste. Without limitation, special waste includes waste that will require special management to ensure protection of public health, safety, or the environment based upon the physical, biological, or chemical properties of the waste. Special wastes include but are not limited to: asbestos waste, infectious wastes, except as specified in 310 CMR 19.061(2), sludges including wastewater treatment sludges, and industrial process wastewater treatment sludges. For the purposes of this bylaw, special wastes do not include drinking water treatment sludges. (Ref: 310 CMR 19.006 and 19.061(2) and (3).)

**Town** means the Town of Westford.

**UL Listing** means that UL (Underwriters' Laboratories) has tested representative samples of the product and determined that it meets UL's requirements. These requirements are based primarily on UL's published and nationally recognized Standards for Safety.

**Underground Storage Tank (UST)** means any tank or storage facility including fill lines, supply lines, and vent lines and all associated connections and appurtenant structures where 10% or more of the tank volume is below the ground surface (527 CMR 9.00) but which shall not include storage in a freestanding container or tank within a building.

#### **§61.4. Permits – non-residential.**

A. All industrial, commercial, retail, institutional, and municipal establishments that maintain tanks, containers, or storage facilities with an individual capacity to hold more than 50 gallons liquid volume used for storage, use, processing or generation of hazardous materials, hazardous wastes or special wastes shall apply for a permit from the Health Department and the Fire Department, if applicable. The permit shall be granted for one year, and may be renewed by the Health Department unless there has been a substantial change in the quantity, type or method of storage, generation or use, or the Health Department's designee concludes for any reason that reissuance of the permit should be reviewed by the Board of Health. This permit shall be in addition to any license required in accordance with M.G.L. ch. 148 §13 and/or any permit required in accordance with 527 CMR 14.00 or any other applicable federal, state or local law or regulation. The permit application shall provide the following information:

1. Name, address, and telephone numbers (day and night) of the owner or operator.

2. Capacity and contents of the tank or storage facility, with specific description of the type of hazardous material being stored, including CASRN.
  3. The date of installation of storage facilities, if available.
  4. The type(s), size(s), age(s), and location(s) of all containers, tanks and/ or storage facilities, and description of leak detection methods in place.
  5. If the tank or storage facility is underground, additional material as required by §61.13, herein.
  6. A site plan showing the location(s) of tanks or other storage containers. If the tank is an Underground Storage Tank, the depth of the bottom and top of the tank must also be provided in cross-sectional view.
- B. Owners or Operators of tanks or storage facilities that meet the permit requirements of §61.4.A shall obtain a permit for such tank or storage facility initially within 90 days of the enactment of this bylaw, and annually thereafter within 30 days of January 1, provided, however, that such owners or operators with currently registered tanks or storage facilities under the provisions of this Chapter in effect prior to the adoption of this bylaw shall obtain a permit for such tanks or storage facilities first within 30 days of January 1, 2015. Owners or operators of tanks or storage facilities which later meet the permitting requirements shall obtain a permit for such tanks or storage facilities initially within 30 days of meeting such requirements, and thereafter annually within 30 days of January 1.
- C. In addition to obtaining a permit, owners or operators of tanks or storage facilities permitted in accordance with §§61.4.A and 61.4.B shall maintain on the premises an inventory, reconciled on a monthly basis, of purchase, sale, use, disposal, or discharge of hazardous materials. The purpose of the inventory is to detect any product loss and to provide ongoing record of all hazardous materials within the Town over the registration period. If unaccounted for product loss is discovered in the monthly reconciliation, the owner or operator shall comply with the provisions of §61.8 herein.
- Accurate daily inventory records required pursuant to M.G.L. ch. 148 or any applicable federal, state or local law or regulation shall suffice for the purpose of this section, and may be submitted, under §61.4.D below, in accordance with this bylaw.
- D. Upon the request of the Health Department, owners or operators subject to this Chapter shall produce, within 24 hours, their latest reconciled inventory.
- E. Evidence of the date of purchase and installation shall be included for existing storage systems, along with a plot plan showing the location of all containers, tanks, drains and piping on the property. In complex applications the Health Department and/or the Board of Health may require a plot plan certified by a Professional Land Surveyor. Any changes in the information contained in the initial application, including any change in the use of the storage system, shall be reported within ten (10) business days of the change.
- F. A list of daily amounts stored, used or generated and estimate of yearly throughput of all hazardous materials and waste and special waste to be used, stored or generated on the site, and copies of pertinent Material Safety Data Sheets.
- G. Documentation stating that all information previously filed with the Health Department is correct, or indicating a change in the status of the existing permit shall be submitted annually. A new permit shall be obtained within thirty days from the Health Department



whenever there is any change in the type or method of generation, use or storage, or significant change in the quantity or composition of hazardous materials or wastes or special wastes previously permitted; the method of storage, generation or use fails to comply with information previously submitted to the Health Department.

- H. The Health Department and/or the Board of Health may require additional information if it is necessary to adequately evaluate the application and may impose conditions.

**§61.5. Exceptions.**

Application of fertilizers, herbicides and pesticides used in accordance with applicable local, state and federal regulations shall be exempt from this bylaw. Application of de-icing chemicals in conformance with the Massachusetts Snow and Ice Control Program, application of swimming pool chemicals, and application of water treatment chemicals by the Town of Westford Water Department and other Community Public Water Systems and storage of such chemicals are also exempt from this bylaw. This bylaw also shall not apply to discharge of ordinary sanitary wastewater into a septic system installed in accordance with applicable State and local regulations or to ordinary uses of household or garden products used in accordance with applicable labeling instructions from state and federal law. Nothing in this bylaw prohibits the Board of Health from limiting or prohibiting the use of any such product by appropriate regulations in the future.

**§61.6. Exceptions to permit requirement.**

Permits shall not be required under this bylaw for the following:

- A. Septic Systems.
- B. Diesel fuel stored in tanks mounted on a vehicle and used to fuel vehicles on a construction site.
- C. Hydraulic oil reservoir tanks on heavy equipment.
- D. Use of domestic biodegradable cleaners for residential and business maintenance.
- E. Aboveground fuel oil tanks, including tanks in a basement, installed solely for the purpose of heating the building and/or providing hot water.
- F. Aboveground and underground propane tanks and liquefied petroleum gas (LPG) tanks installed for the purpose of heating the building and/or providing hot water and/or cooking fuel, to operate an emergency generator or for a propane filling station.
- G. Storage of consumer-sized containers of hazardous materials such as motor oil, cleaning supplies, paint, paint thinner, lawn chemicals, weed killer, and any other such commercially available products intended for retail provided that each individual container holds less than 50 gallons liquid volume.
- H. The Board of Health may impose conditions on any storage permit as necessary to serve the purposes of this bylaw or to protect the public health and environment.

**§61.7. Permits – residential.**

- A. All residences with an existing underground fuel storage tank used to store No. 2 fuel oil shall apply for a permit from the Board of Health following the same requirements set forth in §61.4.

- B. Aboveground fuel storage tanks at residences, including tanks maintained in a basement/cellar or outbuilding, are exempt from permit requirements.
- C. New residential underground fuel storage tanks used to store No. 2 fuel oil are prohibited under this regulation except by permit from the Board of Health.
- D. All existing and new aboveground fuel storage tanks must comply with the fuel line requirements of all applicable federal, state and local laws, rules and regulations, including but not limited -to M.G.L. ch. 148 §38J(d).
- E. Aboveground and underground propane tanks and liquefied petroleum gas (LPG) tanks installed solely for the purpose of heating the building, cooking and/or providing hot water or to operate an emergency generator are exempt from permit requirements.
- F. LPG tanks installed solely for the purpose of heating the building, cooking and/or providing hot water or to operate an emergency generator are exempt from permit requirements.

**§61.8. Prohibition. Discharge reporting, defects, and remedial actions.**

- A. There shall be no discharge of hazardous materials, hazardous wastes or special wastes within the Town of Westford through land, water, or air transmission without a permit for such action by an authorized agent of a federal, state, or local agency or without a hearing from the Board of Health unless otherwise excepted or exempted under this bylaw.
- B. Owners, Operators and/or Persons in Charge must immediately report any discharge, leaking tanks or abnormal loss of hazardous materials or waste or special waste and shall provide a reasonable estimate of the nature and quantity of the discharged hazardous materials, wastes or special wastes to the Health Department and the Fire Chief within 12 hours of knowledge of the discharge in addition to meeting the notification requirements of all applicable federal, state, or local laws, rules and regulations, including but not limited to the reporting requirements of the Massachusetts Contingency Plan contained in 310 CMR 40.0300 et seq.
- C. No area within which hazardous materials, hazardous wastes, or special wastes are used, stored or generated may contain a floor drain that leads to a storm drain, septic system or leaching structure of any kind. Floor drains in such areas shall drain into containment vessels for removal by a MassDEP-approved hazardous waste hauler. All other drains shall be permanently sealed.
- D. No residues or waste waters resulting from hazardous material or waste or special waste spill cleanup procedures shall be disposed of into drains or other facilities leading to storm drains, septic systems, leaching structures of any kind, and/or Waste Water Stations. All such residues and waste waters shall be contained for removal by a MassDEP-approved hauler.
- E. Any release or discharge of hazardous material, hazardous waste or special waste shall be immediately contained and reported to the MassDEP if the quantity of material discharged exceeds the Reportable Quantities (RQ) listed in the Massachusetts Oil and Hazardous Materials List (MOHML) at 310 CMR 40.1600. Owners, Operators, and persons in Charge of Facilities that store hazardous material, hazardous wastes, or special wastes shall familiarize themselves with the Massachusetts Contingency Plan reporting requirements at 310 CMR 40.0300 et seq.

- F. Releases of quantities of material less than the RQs that do not have to be reported to MassDEP shall be cleaned up immediately. Clean-up and proper disposal of any discharged or abnormally lost hazardous material, hazardous waste, or special waste shall be the responsibility of the owner or operator, hazardous material generator, or user including cost of the cleanup and disposal. All clean-up must be conducted in a way that will not contribute to risk of fire, explosion, or other environmental hazard.

**§61.9. General requirements for approval of hazardous material and hazardous waste permits.**

Hazardous materials and hazardous waste permits, with the exception of permits for residential home heating oil tanks, shall be granted by the Health Department only if the following criteria are met:

- A. The proposed storage, use or generation system shall provide adequate discharge prevention safeguards which are appropriate to the materials and wastes to be stored, used or generated and to the location of the storage, use or generation.
- B. The proposed storage, use or generation system shall comply with all local, state and federal regulations.
- C. The proposed storage, use or generation system shall not cause a threat to the public health and safety or to the environment.
- D. The applicant has established a satisfactory hazardous materials and hazardous waste discharge contingency plan.
- E. All hazardous materials or hazardous wastes to be stored above ground shall be stored in product-tight containers on an impervious, chemical resistant surface, under cover and sheltered from the weather unless otherwise specified by the Board of Health. The storage area shall be enclosed with a permanent dike of impervious construction providing a volume of at least 100% of the maximum volume of the largest single container or tank plus 10% of the total storage capacity. All outdoor storage areas shall be surrounded by a five (5)-foot fence, at a minimum, and shall be kept locked at all times when unattended.
- F. Hazardous waste shall be held on the premises for removal by a licensed carrier in accordance with the Massachusetts Hazardous Waste Management Act, M.G.L. ch. 21C.
- G. Owners, Operators, and Persons in Charge shall park delivery trucks or tank trailers that carry hazardous materials only in designated overnight parking areas approved by the Health Department and Fire Department. These parking areas must allow for detection and containment of discharge from the parked vehicles that are acceptable to the Board of Health and Fire Department.

**§61.10. Aboveground tanks or storage facilities.**

- A. Surfaces underlying above-ground tanks or storage facilities containing hazardous materials, or areas in which hazardous materials are used, transferred, or delivered to such tanks or storage facilities, shall be impermeable to the materials being stored, and shall be enclosed by a permanent dike of impermeable construction. The dike system shall be sufficient to contain the capacity of the largest tank or storage facility plus 10% of the aggregate capacity of all other tanks or storage facilities within the enclosure. Double-walled tanks with continual interstitial monitoring may meet the diking requirements of this regulation. Nothing in this section shall be construed to replace the application of the dike requirements to tanks or storage facilities licensed under M.G.L. ch. 148.

- B. Wastes containing hazardous materials shall be held on the premises in product-tight containers for removal by a licensed carrier for disposal in accordance with M.G.L. ch. 21C.
- C. Aboveground tanks or storage facilities shall be prominently labeled to provide notice as to the types of hazardous materials stored within.
- D. This section does not apply to residential or commercial above-ground heating oil tanks used solely to store No. 2 fuel oil used for heating the building and/or providing hot water or for aboveground diesel or No. 2 fuel oil tanks that serve emergency generators.
- E. **Removal of aboveground tanks.** If an aboveground tank is removed and not replaced such as in a conversion of a building to some other heating fuel, all appurtenant devices such as fill pipes, vents, and piping must be removed to prevent accidental delivery of fuel oil to a cellar or other space.

**§61.11. Inventory and monitoring of above ground storage systems.**

All hazardous materials or special wastes stored above ground, with the exception of residential and commercial heating oil tanks, shall be monitored weekly unless more frequent monitoring is specified in the permit. Monitoring shall consist of a thorough visual inspection of the container(s) and tank(s) and inventory of materials as well as the dike area for deterioration, leakage or unaccounted for loss of materials. All owners and operators shall maintain a written record of monitoring. This record must be available for inspection by the Health Department on request.

**§61.12. Record retention.**

Throughout the permit period, owners, users, generators, or operators shall keep copies of all Hazardous Waste Transport Manifests on-site, as required under the Resource Conservation and Recovery Act 42 USC §6901 et seq. and the Massachusetts Hazardous Waste Management Act M.G.L. ch. 21C, 315 CMR §2.04. If a hazardous waste generator is exempt from the manifest requirements sufficient proof of a proper disposal method shall be maintained.

**§61.13. Underground tanks or storage facilities.**

- A. In addition to the information set forth in §§61.4 and 61.7, all owners or operators, including residential owners, of underground tanks or storage facilities containing oil or hazardous materials, in any quantity, shall provide to the Health Department and the Fire Department, if applicable, the following additional information:
  - 1. The location of each tank or storage facility on the premises, complete with sketch map.
  - 2. The age and size of each tank or storage facility, evidence of the date of installation, including any permits, if applicable. Such information shall be filed in the same manner, and at the same times, as that information required by §61.4, above.
- B. All materials used in the construction of any UST or storage facility shall be suitable for the purpose, and such tank or storage facility shall be designed or constructed to withstand any normal stress to which it may be subjected. Where applicable, such tank or storage facility shall be constructed in accordance with M.G.L. ch. 148 and 527 CMR 9.00 et seq., as amended.
- C. Owners or operators of underground tanks or storage facilities for which evidence of an installation date is not available shall, at the order of the Health Department, have such underground tanks or storage facilities tested, in accordance with procedures set forth in

527 CMR 9.00 as amended which are incorporated herein. Tanks that fail a tightness test that cannot be reconciled shall be taken out of service and removed in accordance with the requirements of 527 CMR 9.00, as amended.

- D. All steel underground storage tanks or storage facilities shall be subject to mandatory tightness testing 15 years after the date of installation, and annually thereafter. Owners or operators may request a variance from the testing requirement if they demonstrate to the Health Department that such tests are not appropriate because of the presence of monitoring devices, double-walled construction, or equivalent safety precautions. The Health Department, after reviewing the information, may determine that the underground tank or storage facility does not represent a threat to ground or surface water quality. Such variance shall be required yearly. Nothing in this subsection shall be construed to replace or supersede the testing requirements of 527 CMR 9.00 or any other federal, state or local law or regulation.
- E. All steel underground storage tanks exempted under the provisions of §61.13.D herein must be tested for tightness at 20 years after installation, and every third year thereafter. All tanks constructed of fiberglass or other materials must be tested at 20 years after installation and every third year thereafter.
- F. All underground residential fuel storage tanks used to store No. 2 fuel oil must be tested for tightness at 20 years after installation and every third year thereafter.
- G. Where the Health Department has probable cause to believe that an underground tank or storage facility has caused a leak or a discharge to occur, said Board may order the testing for tightness of such tank or storage facility.
- H. If the testing required by this section indicates that a leak or discharge has occurred, the owner or operator shall proceed in accordance with §61.8, herein.
- I. Underground tanks or storage facilities shall have appurtenances prominently labeled to provide notice as to the types of hazardous materials stored within.
- J. All owners or operators of UST systems must provide the name and contact information for the Class A, B, or C Operator responsible for maintaining the tank as required in 310 CMR 80.02 and consistent with the requirements of 527 CMR 9.
- K. **Underground storage tank removal.** Removal procedures for tanks used for storage of hazardous, flammable, or combustible material shall follow the requirements of 527 CMR 9.00 and 502 CMR 3.00. Prior to removal of a tank, the Fire Chief and Health Department shall be notified and the Fire Chief shall designate an inspector to oversee the tank removal unless MassDEP personnel are present. If there is any evidence of a release from an underground storage tank backfilling cannot take place until the owner has contracted a Licensed Site Professional (LSP) and all future work must be conducted under the requirements all applicable federal, state and local laws, rules and regulations, including but not limited to the Massachusetts Contingency Plan, 310 CMR 40.0000.
- L. **Removal of all appurtenances when removing tanks.** When underground storage tanks are excavated and removed, all appurtenant devices including fill pipes, vents, and supply lines shall also be removed.
- M. **Repair of residential tanks.** No residential underground heating oil storage tanks shall be repaired and placed back in service. Any tank which is in need of repair shall be removed and replaced by an above ground storage tank.

**§61.14. Underground storage of flammable or combustible products and hazardous materials or hazardous wastes or special wastes.**

- A. **Underground storage requirements.** Owners or operators storing flammable or combustible materials in underground storage systems shall obtain a permit from the Fire Chief in addition to the permit from the Health Department. Owners and operators storing hazardous materials or wastes or special wastes underground which are not flammable or combustible need only obtain a permit from the Health Department.
- B. **Change of material in storage tank.** Prior to any change in the material stored in an underground tank, such change of material shall be approved by the Health Department and (in the case of flammable or combustible materials) by the Fire Chief. Confirmation by the tank manufacturer that such a change in material would be compatible with the tank type shall also be submitted, in writing, to the Health Department and Fire Chief.
- C. **Underground storage tank construction.** All underground storage tanks shall be designed to minimize the risk of corrosion and leakage, and shall conform to all construction and installation requirements under applicable state and federal law. All new underground storage systems for hazardous materials or waste or special waste shall meet the standards for new underground hazardous waste tanks set forth in 310 CMR 30.693 and 30.694. Tanks for storage of hazardous wastes or flammable or combustible materials shall meet the requirements of 527 CMR 9.00.

**§61.15. Groundwater and surface water protection.**

- A. **Groundwater Protection Areas.** New underground storage tanks are prohibited in a Groundwater Protection Area. Existing underground storage tanks in the Groundwater Protection Area shall apply for a permit from the Board of Health immediately upon the effective date of this Bylaw, which will require demonstration of no other option for storage of fuel or other material. Underground storage tanks in Groundwater Protection Areas must be fiberglass tanks with double-walled construction and interstitial leak monitoring. The Health Department may require installation of monitoring wells near the tank based on site-specific conditions.
- B. **Flood Zones.** Underground storage tanks shall not be located the Flood Zone except by permit from the Board of Health and must meet the same requirements as in 61.15A herein.

**§61.16. Cessation of permit.**

The holder of a hazardous materials and waste and special waste permit shall notify the Health Department immediately, in writing, whenever the activities authorized under the permit cease on a permanent basis.

**§61.17. Promulgation of rules and regulations.**

The Board of Health may from time to time pass regulations specifying categories of materials that shall be considered are hazardous materials or wastes under the "Hazardous Material" or "Hazardous Waste" definitions of this bylaw. The Board may adopt or amend rules and regulations consistent with the provisions of this bylaw. A copy of such rules shall be filed with the Town Clerk.

**§61.18. Abandonment and other concerns.**

The holder of any license issued pursuant to M.G.L. ch. 148 for underground storage of any liquid hazardous material shall notify the Health Department and the Fire Chief whenever the provisions of

said license cease to be exercised. Upon such notification, the Fire Chief shall prescribe appropriate action under M.G.L. ch. 148 and applicable state regulations.

**§61.19. Variances.**

The Board of Health may vary the application of any provision of this bylaw, unless otherwise precluded by law, when in its opinion; the applicant has demonstrated that an equivalent degree of environmental protection required under this bylaw will still be achieved. The applicant, at his/her own expense, must notify all abutters by certified mail at least ten days before the hearing at which such variance request shall be considered. The notification shall state the variance sought and the reasons therefor. The Board of Health shall also notify, within 14 days of receipt of a variance request, the Fire Chief, Conservation Commission, Planning Board, and Building Inspector, of any variance requested under this Section, for their response in writing. The Board of Health shall hold a hearing on such variance request within 45 days of its receipt. Any variance granted by the Board of Health shall be in writing, as shall be any denial of a variance request, and shall contain a brief statement of the reasons for the granting or denying the variance.

**§61.20. Fees.**

- A. The Board of Health may charge reasonable fees and shall publish a fee schedule.
- B. The Board of Health may charge for additional expenses incurred in the enforcement of Chapter 61.
- C. Any person applying for a permit for a tank or storage facility pursuant to Chapter 61 shall pay a fee to the Town's Board of Health. Such fee shall be due on the same date as the initial or annual permit. Failure to pay the fee shall constitute a violation subject to the penalties contained herein.

**§61.21. Enforcement.**

- A. Any person having knowledge of any discharge of hazardous materials shall immediately report the discharge to the Health Department and the Fire Chief and to the MassDEP if the release meets the requirements of reporting under 310 CMR 40.0300 et seq.
- B. The Board of Health or its designee, the Health Department or its designee, the Fire Chief or his designee may, upon reasonable notice to the occupant of the premises enter any premises for the purpose of investigating, sampling, or inspecting any record, condition, equipment, practice, or property relating to activities subject to this bylaw and for purposes of enforcing this bylaw.
- C. The Board of Health may suspend or revoke any permit or license issued pursuant to this Bylaw for any violation of this Bylaw or for any violation of any other applicable federal, state or local law, rule or regulation. Such revocation or suspension may take place after a hearing held by the Board of Health of which the permit or license holder is given seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address listed on the permit application.
- D. Any person who violates any provision of this bylaw shall be punished by a fine of not more than \$300 as allowed under M.G.L. ch. 40 §21. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one violation exists, each violation shall constitute a separate offense. Upon the request of the Board of

Health or the Fire Chief, the Board of Selectmen shall take such legal action as is necessary to enforce this bylaw.

- E. This bylaw may be enforced by the Health Department or its designee or the Fire Chief or his designee, and Town police officers. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition process as provided in M.G.L. ch. 40 §21D and the Town's non-criminal disposition by-law. If non-criminal disposition is elected, then any person who violates any provision of this bylaw shall be subject to a fine of \$300 per offense.
- F. The Board of Health and/or Fire Chief may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.

#### **§61.22. Severability.**

Each provision of this bylaw shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 27: Amend Chapter 22: Finance Committee</b>
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*Finance Committee*

**Motion:** *(Majority Vote Required)*

That the Town amend General Bylaw Chapter 22 as set forth below, with proposed changes shown in underline for additions and strikethrough for deletions.

#### **Chapter 22: Finance Committee**

##### **§ 22.1. Executive summary.**

The Finance Committee is appropriately interested in the Town's annual operational budget development, financial policy, and all planning anticipated to have a financial impact on the Town. The Committee can make recommendations on any financial matter before Town Meeting or on ballot referenda and provide the underlying rationale and supporting information for each recommendation.

##### **§ 22.2. Membership; compensation.**

There shall be a Finance Committee consisting of 9 voters of the Town, none of whom shall hold any other elective or appointed Town office or position having to do with the expenditure of money. The members of the Finance Committee shall be sworn to the faithful performance of their duties and shall serve without compensation.

##### **§ 22.3. Duties.**

- A. The Finance Committee shall be appointed by the Moderator for the purpose of advising the Town Meeting on all matters relating to the appropriation, borrowing, expenditure, and receipt of money by the Town, including, but not limited to, the annual budget as set forth below, the Town's indebtedness, capital needs, and all other municipal affairs having a financial impact upon the Town.
- B. The Finance Committee shall recommend approval or disapproval to the Town Meeting of the annual operating and capital budgets as set forth below, and also upon any article or matter within a Town Meeting warrant which may involve the appropriation or expenditure of money. Such recommendations shall include any other advice the Committee deems advisable. The Committee may also issue recommendations on referenda or other matters appearing on the ballot having financial impact upon the Town, excluding the choice of individuals for Town offices.



§ 22.4. Terms; vacancies; organization.

The terms of members shall be for 3 years and shall be staggered in such a manner that 3 terms expire in each year. The terms shall begin upon July 1 in the year in which appointments are made. A vacancy shall exist whenever a member resigns in mid-term by informing the Moderator and Town Clerk of such intent. Vacancies shall be filled by the Moderator for the remainder of the unexpired term only. The Committee shall meet at the call of the majority of duly appointed members, or at the call of the Town Clerk as soon as practicable after July 1 of each year to organize, elect such officers as it may deem necessary, and to adopt and amend such rules and regulations, organization, and procedures as are consistent with these bylaws and the General Laws of the Commonwealth.

§ 22.5. Advisor.

The Finance Director shall serve as an advisor to the Finance Committee.

§ 22.6. Areas of responsibility. [Amended 11-12-02 STM Art. 16]

A. Development of annual operating and capital improvement budgets.

1. ~~Immediately upon~~ Within sixty days of the close of the fiscal year, the ~~Finance Director~~ Town Manager shall compile statements in tabulated form for 1) the amounts appropriated and amounts expended from each appropriation during the preceding fiscal year and 2) an analysis of the adequacy of the appropriations and revenue estimates for the current fiscal year. Copies of the same, together with any other information he/she deems advisable, shall be immediately transmitted to the Board of Selectmen, the Town Manager, and the Finance Committee. The Town Manager, in consultation with the Finance ~~Director~~ Department and Finance Committee, shall then set completion dates for all phases of the succeeding fiscal year's budget development process.
2. Upon analysis and consideration of the information provided and gathered, the Town Manager shall issue a budget development message to all departments and boards by the agreed upon date. The message shall outline the current and projected financial condition of the Town and budgetary goals for the succeeding fiscal year.
3. The Town officers, boards, committees, and department heads authorized by law to expend funds, shall submit detailed estimates of the amounts necessary for the proper maintenance of their departments in the upcoming fiscal year to the Town Manager and Finance Committee no later than the agreed upon date. Furthermore, such officers, boards, committees, and department heads authorized by law to expend funds, shall submit a capital budget for the upcoming fiscal year to the Town Manager and the Finance Committee no later than the agreed upon date.
4. All budgets thus submitted shall be consistent with the policy direction contained in the budget development message and shall be accompanied by sufficient explanation and supporting data to clearly support the amounts described.
5. The Town Manager and Finance Committee shall either separately or jointly review the budgets submitted to them, and each shall hold such hearings and meetings as deemed necessary. The Town Manager shall, no later than the agreed upon date and after making additions and deletions as he/she sees fit, adopt a final proposed operating and capital budget for presentation to the Annual Town Meeting for the succeeding fiscal year.
6. The Finance Committee shall, after due consideration, recommend the amounts which, in its judgment, should be appropriated for the ensuing year, and shall accompany the same with such explanations and suggestions thereto as it may deem advisable for the proper information of the voters. The Finance Committee

shall print these recommendations and information together with the Town Manager's proposed budget and the warrant, and shall distribute this document to all residents of the Town at least 10 days prior to the Annual Town Meeting.

**B. Management of Finance Committee reserve fund.**

Town Meeting may appropriate monies into a reserve fund for the transfer of funds by a majority vote of the Finance Committee, to meet "extraordinary or unforeseen expenses" within a Town function during the fiscal year.

**C. Recommendations upon warrant articles and ballot questions which have a financial impact.**

The Finance Committee may study the financial implications and impact of all warrant articles before the Town Meeting, or a question on a ballot. It shall then inform the voters of its findings and recommendations.

**D. Participation in planning/negotiation activities.**

1. The Finance Committee, or a designated member, may be an active participant in any board or committee created for the purpose of formulating financial policy and procedures which affect bonded debt, free cash use, capital budgeting, investments, expanding revenue sources, and any other financial planning activities.
2. The Finance Committee, or a designated member, may be a non-voting member to all official and unofficial ad-hoc committees created for the purpose of negotiating the purchase of any land, buildings, rights, interests, etc., in excess of \$10,000.

*Selectmen recommend and Finance Committee recommends*

**ARTICLE 28: Amend Chapter 124: Marijuana Bylaw**

*Board of Selectmen*

**Motion:** *(Majority Vote Required)*

That the Town amend General Bylaw Chapter 124 to refer to the Humanitarian Medical Use of Marijuana Act; and to make formatting changes consistent with other bylaws; proposed changes are shown in underline for additions and ~~striketrough~~ for deletions.

**Chapter 124: Public Consumption of Marijuana**

[Adopted 10-18-2010 STM, Art. 11.]

**§124.1. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this bylaw.

Marijuana shall mean marijuana (or tetrahydrocannabinol) as defined in M.G.L. ch. 94C, § 1 as amended.

Consume shall mean taking into the human body by means of inhalation, ingestion, absorption or injection.

**§124.2. Public consumption prohibited.**

No person shall burn, smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in M.G.L. ch. 94C, § 1, as amended) while in or upon any area owned by or under the control of the Town, including but not limited to, any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school, school grounds, cemetery, or parking lot; or in or upon any bus or other passenger conveyance operated by a common carrier; or in or upon any place accessible to the public, including any person in a motor vehicle while it is in, or upon any public way or any way to which the public has a right of access within the Town.

**§124.3. Seizure of marijuana in violation.**

Any marijuana or tetrahydrocannabinol burned, smoked, ingested, or otherwise used or consumed in violation of this bylaw shall be seized, held, and disposed of in accordance with M.G.L. ch. 94C, § 47A.

**§124.4. Identification of person(s) found in violation.**

Whoever is found in violation of this bylaw shall, when requested by an official authorized to enforce this bylaw, state his or her true name and address to said official.

**§124.5. Enforcement.**

This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. ch. 40, § 21, or by non-criminal disposition pursuant to M.G.L. ch. 40, § 21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer. This bylaw does not apply to the consumption of marijuana on the premises of a Registered Marijuana Dispensary, registered and regulated by the State Department of Public Health.

**§124.6. Penalties.**

The fine for a violation of this bylaw shall be \$300 for each offense. A penalty imposed under this bylaw shall be in addition to any civil penalty imposed M.G.L. ch. 94C, § 32L.

An offender under the age of 18 that violates this bylaw shall be subject to forfeiture and a \$100 fine, provided he or she also completes a drug awareness program which meets the criteria set forth in M.G.L. ch. 94C, § 32M. The parents or legal guardian of any offender under the age of 18 shall also be notified of the offense, as set forth in M.G.L. ch. 94C, § 32N, and informed of the drug awareness program and community service requirements. If an offender under the age of 18 fails within one (1) year of the offense to complete both a drug awareness program and the required community service, the \$100 fine for violation of the bylaw may be increased to \$300 and the offender and his or her parents shall be jointly and severally liable to pay that amount. A fine of \$300 shall also be imposed for offenders under the age of 18 for each subsequent offense of this bylaw.

~~And that the Town add an entry in Chapter 1, Section 1.4 of the General Bylaws, as follows:~~

Chapter	Enforcing persons	Offense	
Chapter 124 Public Consumption of Marijuana	Selectmen, Town Manager, any police officer	1st and each subsequent offense	\$300
Chapter 124 Public Consumption of Marijuana by a person Under 18 but over 14 years of age	Selectmen, Town Manager, any police officer	1st offense	\$100 and complete drug awareness program
Chapter 124 Public Consumption of Marijuana by a person Under 18 but over 14 years of age	Selectmen, Town Manager, any police officer	Failure to complete the drug awareness program and each subsequent offense	\$300

*Selectmen recommend*

<b>ARTICLE 29: Adopt New General Bylaw Chapter 170: Stony Brook Conservation Land</b>	<i>Board of Selectmen</i>
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**Motion:** *(Majority Vote Required)*

That the Town adopt a new General Bylaw Chapter 170 to rename the town-owned parcels of land now known as Stepinski and East Boston Camps with new names reflecting the Town of Westford ownership of this property as shown below:

**Chapter 170: Stony Brook Conservation Land**

**§ 170.1. Purpose.**

The purpose of this bylaw is to rename town-owned parcels of land currently known as the Stepinski parcel and East Boston Camps to "Stony Brook Conservation Land." The camps on this parcel will retain their current name of "East Boston Camps." The current "East Boston Camps" sign at the Depot Street parcel entrance will be relocated to the actual site of the camps in the Stony Brook Conservation Land. Any other signs referring to East Boston Camps will be situated within the campsite area. A "Stony Brook Conservation Land" sign with the wording "Town of Westford Conservation and Recreation Land" underneath the new name will be erected at the Depot Street parcel entrance. This does not preclude the naming of Water Department assets or recreation fields situated on the land.

**§ 170.2. Definitions.**

- A. "East Boston Camps" includes the parcels of land and camps approved for purchase by the February 7, 2005 Special Town Meeting Article 1. The land is described as Assessors' Map 31-37, 35-32-4 and a 6,141square foot lot shown on MNRD (Middlesex North Registry of Deeds) Plan Book 97, Plan 91B and a 25,858 square foot lot and a 48,582 square foot lot both shown on MNRD Plan Book 99, Plan 62A (all to be referred to as Parcel A) and Assessors' Map 36-8 (to be referred to as Parcel B), consisting of approximately 289 acres.
- B. The "Stepinski" parcel includes the parcel of land approved for purchase by the Town of Westford at the October 20, 2008 Special Town Meeting. The land is described as Assessors' Map 31-Parcel 35, 31-35-101 and 31-35-102 consisting of 110.8 acres.
- C. "Stony Brook Conservation Land" is the new name of the combined East Boston Camps and Stepinski parcels.

**§ 170.3. Naming of Recreational Fields and Water Department Assets.**

This bylaw does not change the naming rights of the Committees or Boards having "care and custody" of the various recreational fields and Water Department assets located on this land.

<i>Selectmen recommend</i>
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**ZONING BYLAW AMENDMENTS**

<b>ARTICLE 30: Amend Zoning Bylaw Sections 2, 6, 8 and 10 to Establish a Medical Marijuana Overlay District</b>	<i>Planning Board</i>
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**Motion:** *(2/3 Majority Vote Required)*

That the Town amend subsection 2.1.1 to include a reference to the Medical Marijuana Overlay District (MMOD), to delete Section 6.6 in its entirety – Temporary Moratorium on Medical Marijuana Treatment Centers, to create a new subsection 8.6, Medical Marijuana

Overlay District and to amend Section 10.2, Definitions, to add definitions related to MMOD.

Section 2.1.1 –add MMOD to list of Overlay Districts - Additions shown in **bold underline**. The map of the MMOD will be incorporated into the Zoning Map with this amendment.

### Section 2.1.1

The following overlay districts are also hereby established within the Town of Westford:

Water Resource Protection Overlay District	WRPOD
Floodplain Overlay District	FOD
Conservation Overlay District	COD
Senior Residential Multifamily Overlay District	SRMOD
Mill Conversion Overlay District	MCOD
Route 110 Minot's Corner Overlay District	R110MCOD
<b><u>Medical Marijuana Overlay District</u></b>	<b><u>MMOD</u></b>

Section 6.6 –Delete section 6.6 Temporary Moratorium because final zoning text being proposed.

## ~~6.6 — TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS~~

~~[Added 3-23-2013 ATM, Art. 19]~~

### ~~6.6.1 — Purpose~~

- ~~1. By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013 and the State Department of Public Health is required to issue regulations regarding implementation within 120 days of the law's effective date.~~
- ~~2. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning, and public health and safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and better understand and address the complex issues mentioned herein. Furthermore, the Town needs to understand the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to the regulation of medical marijuana.~~
- ~~3. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town, to study the complex issues noted herein, and to enact bylaws in a manner consistent with sound land use planning goals and objectives.~~

### ~~6.6.2 — Temporary Moratorium~~

- ~~1. For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on~~

~~the use of land or structures for a Medical Marijuana Treatment Center. The moratorium shall be in effect through June 30, 2014.~~

- ~~2. During the moratorium period, the Town shall undertake a planning process to address the potential effects of medical marijuana facilities in the Town, consider the Department of Public Health regulations Regarding Medical Marijuana Treatment Facilities and related uses, and shall consider adopting new Zoning Bylaws to address the effect and operation of Medical Marijuana Treatment Centers and related uses.~~

*Section 8.6 –Add new section describing the MMOD. The entire section is new and is not shown in underline for clarity.*

## **8.6 MEDICAL MARIJUANA OVERLAY DISTRICT (MMOD)**

### **8.6.1 Purpose**

1. The purpose of this Section is to provide for the placement of a Registered Marijuana Dispensary (RMD) in accordance with the Humanitarian Medical Use of Marijuana at GL c 94C, App. S1-1 et seq., in a location suitable for a lawful medical marijuana facility and to minimize adverse impacts of a RMD on adjacent properties, residential neighborhoods, and locations where minors congregate by regulating the siting, design, placement, security and removal of a RMD.
2. Where not expressly defined in the Zoning Bylaw, terms herein shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act G.L. c 94C. App. S 1-1, et seq. and the Department of Public Health (DPH) Regulations promulgated thereunder, 105CMR 725, et seq., and otherwise by their plain language.

### **8.6.2 Overlay District**

The Medical Marijuana Overlay District (MMOD) is hereby established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control. Land within the MMOD may be used for either:

- a. A Registered Marijuana Dispensary (RMD) in which case the requirements set forth in this Section shall apply; or
- b. A use allowed in the underlying district in which case the requirements of the underlying district shall apply.

### **8.6.3 Location**

1. The MMOD overlays most of the Commercial Highway District along State Route 110 (Littleton Road) and part of the Industrial A District along State Route 40 (Groton Road) as shown on the zoning map on file with the Town Clerk. These locations are suitable because they are highly visible with direct access to state highways and portions of the overlay district are located adjacent to established public transit routes. The overlay district is also in proximity to commercial activity areas that have medical treatment and dispensary facilities.
2. A RMD shall not be located within 500 feet of any of the following facilities that are in existence at the time of permit application:
  - a. School, including a public or private elementary, vocational or secondary school or a public or private college, junior college or university;
  - b. Child Care Center as defined in MGL Chapter 15D Section 1A;
  - c. Public park; or

- d. Any facility where the primary purpose is to serve persons under age 18 who commonly congregate to participate in scheduled and structured activities.
3. Measurement of distance for the purpose of this bylaw shall be measured from property line to property line. The Planning Board may waive this distance requirement by a supermajority vote as part of the issuance of a Special Permit in any of the following instances:
  - a. Renewal of a Special Permit for an existing RMD; or
  - b. New application (change of applicant) for an existing RMD; or
  - c. If the applicant demonstrates that a RMD would otherwise be effectively prohibited within the Town; or
  - d. The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

#### **8.6.4 Eligibility**

1. Only one RMD shall be permitted within the Town. As defined in Section 10.2 a RMD can either dispense, prepare, cultivate or any combination thereof. Therefore, any facility with one of these activities constitutes a RMD.
2. Only an applicant holding a valid Provisional Certificate of Registration from the Department of Public Health is eligible to apply for a Special Permit under this Section.

#### **8.6.5 Administration and Procedure**

1. One RMD shall be permitted in the MMOD pursuant to a Special Permit. The Planning Board shall be the Special Permit Granting Authority (SPGA) for a RMD Special Permit. In addition to the RMD Special Permit, applicants shall apply for a Site Plan Review in accordance with Section 9.4.
2. The Planning Board shall notify and refer copies of RMD applications to the appropriate Town officials, such as Police Department, Fire Department, Building Commissioner, Town Engineer, Highway Superintendent, Health Department, Water Department, and Council on Aging, who have expertise or responsibilities relating to the application or serve constituencies likely to use a RMD. These reviewers may examine the application and submit written comments to the Planning Board. Failure to submit written comments by the designated deadline shall be construed as a lack of opposition to the proposal.
3. Applicants for a RMD Special Permit shall follow the application requirements on forms provided by the Planning Board or their designee.
  - a. An applicant for a Special Permit to operate a RMD under this bylaw shall submit the following to the Planning Board for its review:
    - 1) A copy of its Provisional Certificate of Registration from the Massachusetts Department of Public Health (DPH);
    - 2) A copy of any waivers of DPH regulations issued to the RMD;
    - 3) A full description of all security measures including employee security policies approved by the DPH;
    - 4) A copy of the emergency procedures approved by the DPH;
    - 5) A copy of the policies and procedures for patient or personal caregiver home delivery approved by DPH;
    - 6) A copy of the policies and procedures for the transfer, acquisition or sale of marijuana between RMDs as approved by the DPH; and
    - 7) A security contingency plan to address emergency situations and conditions presented by emergencies such as extended power outage and natural disasters.

- b. The site plan shall clearly delineate various areas of the RMD (both indoors and outdoors) including but not limited to as public access areas, employee-only access areas, storage, cultivation, preparation, waste disposal, administrative, transportation and loading as well as parking areas. Site plans and/or application narrative shall contain sufficient information so that the Planning Board can evaluate the following design and operational standards.
- 4. Design Standards. The facility shall meet the following minimum requirements:
  - a. All activities related to the RMD with regard to processing, cultivation, or storage of marijuana shall be conducted indoors. No materials, plants or byproducts shall be visible from outside of the premises/building. With the exception of loading areas, no operations shall be visible to the public;
  - b. The facility may include waiting areas for patients and caretakers and areas where patients and caregivers receive instruction about use of the product and other activities directly related to administration of services. There shall not be any facilities for use by the general public such as public reception areas, public restrooms or public lounge or seating areas;
  - c. All shipping and receiving areas shall exclusively serve the RMD. In the case of a multi-use or multi-tenant site, the RMD shall be laid out and designed to ensure separation from other uses or tenants at the site;
  - d. The facility shall have adequate water supply, stormwater systems, sewage disposal, and surface and subsurface drainage;
  - e. Adequate lighting, including night lighting that provides for monitoring of building and site security;
  - f. Signage is limited to that which is permitted under 105 CMR 725.100 (L) and shall also comply with the Town of Westford Sign Bylaw.
- 5. Security and Operational Standards
  - a. The Planning Board shall request review and comment from the Chief of Police or designee. Failure to submit written comments by a designated deadline set by the Planning Board shall be construed as a lack of opposition to the proposal. The Chief of Police or designee may recommend reasonable security conditions to the Board;
  - b. The applicant under this Section shall provide and keep up to date contact information as required by the Chief of Police and Building Commissioner such as name, telephone number and electronic mail address of a contact person who must be available 24 hours a day.
  - c. Security Design Requirements. At a minimum, the security features used to protect the site shall fully comply with 105 CMR 725 and, in addition, must have the following capabilities:
    - 1) A security camera system that monitors all entrances and exits for vehicles and persons as well as all areas where marijuana is received, stored, processed, sent or otherwise handled;
    - 2) The security camera system shall have a minimum 180 day storage capacity;
    - 3) Access and egress to all entrances and exits for vehicles and persons into areas where marijuana is received, stored, processed, sent or otherwise handled shall be controlled by an electronic access security system that records the ingress and egress of vehicles and persons;
    - 4) All personnel shall have a security identity card that includes a front facial picture of the employee. The identity card shall also serve as the electronic



access card for entrance into all restricted areas. The date and time of all access and egress into such areas shall be digitally recorded. Identification cards shall be worn at all times when personnel are in the RMD facility and must be plainly visible and not concealed;

- 5) All security alarm systems for the RMD shall be monitored by central station alarm. The Westford Police Department shall be immediately notified of the receipt of any alarm by the central station monitor; and
- 6) The applicant shall immediately notify the Westford Police Department of any breakdown or malfunction of any part of the security system. This notification shall include at a minimum the following:
  - Date and time of malfunction;
  - Nature of malfunction;
  - Any loss or attempted loss of product as a result of the malfunction;
  - The compensatory measures in place to address the discontinuity of the security system; and
  - Estimated date and time of restoration of the security measures.

6. Enforcement

- a. Failure to comply with any of the provisions of the security measures in this Section shall be reported to the Building Commissioner for review. The applicant's unwillingness or inability to make timely repairs to the security systems may result in the issuance of a Cease and Desist order until such repairs have been completed and approved by appropriate town officials.

**8.6.6 Special Permit Approval Criteria and Conditions**

1. The Planning Board may impose reasonable conditions to improve site design, traffic flow, public safety, water quality, air quality, protection of significant environmental resources and the preservation of community character of the surrounding area including but not limited to the following:
  - a. Minimize the impacts of increased noise and traffic;
  - b. Impose security precautions related to the high value of products and cash transactions;
  - c. Deter unauthorized or ineligible customers at the RMD;
  - d. Impose measures to prevent diversion of marijuana; and
  - e. Conditions related to the design and construction of the facility to improve safety, security and conformance with community character.
2. Planning Board shall address the following general conditions in each special permit issued under this Section:
  - a. Hours of operation, including dispatch for home delivery;
  - b. The reporting of any incidents to the Building Commissioner and Planning Board as required under the requirements of 105CMR 725.110(f) within 24 hours of occurrence. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
  - c. The reporting of any summary cease and desist order, quarantine order, summary suspension order, limiting sales order, notice of hearing or final action by DPH or the Division of Administrative Law Appeals as applicable regarding the RMD to the Building Commissioner and the Planning Board within 48 hours of their receipt.
3. A Special Permit may be issued to any applicant who, in the determination of the Planning Board, has met the requirements of this Section; as well as the criteria in Section 9.3.

4. The issuance of a special permit under this Section shall also be subject to the following:
- The special permit shall expire within five (5) years of the date of issue. If the applicant wishes to renew the special permit, an application to renew must be submitted at least 120 days prior to the expiration of the Special Permit;
  - Special permits shall be limited to the current applicant and shall expire on the date the Special Permit holder ceases operation of the RMD;
  - Special permits shall lapse upon the expiration or termination of an applicant's registration by DPH;
  - The holder of a special permit for an RMD facility shall notify the Building Commissioner and the Planning Board in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH; and
  - Any failure to fully comply with any conditions of the special permit, this or any bylaws of the Town of Westford, or the laws or regulations of the Commonwealth of Massachusetts, may result in the suspension or revocation of the special permit by the Planning Board.

#### 8.6.7 Prohibition Against Nuisances

No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in that area.

#### 8.6.8 Severability

The provisions of the Bylaw are severable. The invalidity of any Section or provision of this Zoning Bylaw shall not invalidate any other Section or provision hereof.

*Changes to Section 10.2 – Add the following definitions and delete definition shown in ~~strikethrough~~. Note: changes to be made in alphabetical order within Section 10.2. "Membership Club" included here to clarify that it is NOT being deleted, and should be on a separate line (this corrects a scrivener's error).*

**Certificate of Registration:** The certificate issued by the Massachusetts Department of Public Health (DPH) that confirms that a RMD has met all requirements pursuant to the Act for the Humanitarian Medical Use of Marijuana and 105 CMR 725 and is registered by DPH.

**Marijuana:** Shall mean marijuana-as defined in 105 CMR 725.004.

**Marijuana-Infused Product (MIP):** Shall mean Marijuana-infused product (MIP) as defined in CMR 725.004.

**Marijuana Treatment Center:** means a not-for-profit entity registered under 105 CMR 725, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products –MIPs, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD refers to the site of dispensing, cultivation OR preparation of marijuana.

**Medical Marijuana Treatment Center:** A not for profit entity, as defined by Massachusetts law only, ~~registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana,~~

~~products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.~~

**Membership Club:** A nonprofit social, sports or fraternal association or organization which is used exclusively by members and their guests. [Added 3-23-2013 ATM, Art. 19]

**Registered Marijuana Dispensary (RMD):** See Marijuana Treatment Center.

*Selectmen recommend and Planning Board recommends*

**ARTICLE 31: Amend Zoning Bylaw Section 8.2, the Floodplain Overlay District**

*Planning Board*

**Motion:** *(2/3 Majority Vote Required)*

That the Town amend Section 8.2, to update references to the State Building Code, to update map references to the Middlesex County Flood Insurance Rate Maps (FIRM), and to correctly reference a requirement of the Code of Federal Regulations. Added words are shown in **bold underline**, deleted words are shown in ~~strikethrough~~.

**8.2 FLOODPLAIN OVERLAY DISTRICT (FOD)** [Amended 3-27-2010 ATM, Art. 26; 3-23-2013 ATM, Art. 22]

**8.2.1 Purpose.** The Floodplain Overlay District (FOD) is established as an overlay district to all other districts:

1. to protect public health, safety and general welfare;
2. to protect human life and property from hazards of periodic flooding;
3. to preserve natural flood control characteristics and the flood storage capacity of the floodplain; and
4. to preserve and maintain the groundwater table and water recharge areas within the floodplain.

All development in the district, including structural and non-structural activities, shall comply with Massachusetts General Laws and with the following:

- Sections of the Massachusetts State Building Code applicable to construction in the floodplain;
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

**8.2.2 District Boundaries.** The FOD includes all special flood hazard areas within the Town of Westford designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Westford are panel numbers 25017C0113E, 25017C0114E, 25017C0118E, 25017C0226E, 25017C0227E, 25017C0228E, 25017C0229E, **and** 25017C0231E **dated June 4, 2010; and** 25017C0232E~~E~~, 25017C0233E~~E~~, 25017C0234E~~E~~, 25017C0236E~~E~~, 25017C0237E~~E~~, 25017C0241E~~E~~, 25017C0242E~~E~~, and 25017C0243~~E~~, **dated July 7, 2014**~~June 4, 2010~~. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the floodway data tables in Middlesex County

Flood Insurance Study (FIS) **report anticipated to be dated July 7, 2014**~~dated June 4, 2010~~. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Commissioner.

- 8.2.3 Overlay District.** The FOD shall be considered as overlaying all classes of districts listed in Section 2.1. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with the Massachusetts State Building Code pertaining to construction in the floodplain, G.L. c. 131, s. 40, and other pertinent regulations.
- 8.2.4 Uses Permitted by Right.** The following uses are permitted by right since they create a minimal risk of damage due to flooding and will not constitute obstructions to flood flow, provided that they are permitted in the underlying district and that they do not require structures, fill or storage of materials or equipment:
1. Agricultural uses such as farming, grazing, truck farming, and horticulture.
  2. Forestry and nursery uses.
  3. Outdoor recreational uses, including fishing, boating and play areas.
  4. Conservation of water, plants and wildlife.
  5. Wildlife management areas; foot, bicycle and horse paths.
  6. Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
  7. Buildings lawfully existing prior to the adoption of these provisions May 7, 1983.
- 8.2.5 Uses Permitted by Special Permit.**
1. No structure or building shall be erected, constructed, substantially improved, or otherwise created or moved, and no earth or other materials dumped, filled, excavated, or transferred, unless a special permit is granted by the Planning Board.
  2. All subdivision proposals must be designed to assure that:
    - a. such proposals minimize flood damage;
    - b. all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
    - c. adequate drainage is provided to reduce exposure to flood hazards.
- 8.2.6 Special Permit Procedures.**
1. Upon receipt of an application for a special permit, the Board shall transmit one (1) copy of the development plan to the Conservation Commission, the Board of Health and the Building Commissioner. Final action shall not be taken until reports have been received from the above Boards or until thirty-five (35) days shall have elapsed following referral without receipt of such reports.
  2. The Planning Board may issue a special permit if the application complies with the following provisions:
    - a. The proposed use complies in all respects with the provisions of the underlying district and all provisions in the Massachusetts State Building Code pertaining to construction in the Floodplain.
    - b. The proposed new construction, substantial improvement and other development or encroachment within the Floodway as designated on the maps shall be accompanied by a certification by a registered professional engineer or architect demonstrating that such activity shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood.

3. Floodway Data. In Zones A, ~~A1-30~~ and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
4. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within A zones.

**8.2.7 Notification of Watercourse Alteration.**

In a riverine situation, Westford shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities
2. NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
3. NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

*Selectmen recommend and Planning Board recommends*

**STREET ACCEPTANCES**

**ARTICLE 32: Accept Hidden Valley Road, Musket Lane, and  
Sawmill Road as Public Ways**

*Board of Selectmen*

**Motion:** *(Majority Vote Required)*

That the Town accept the layout as public ways of the roads known as Hidden Valley Road, Musket Lane, and Sawmill Road as heretofore laid out by the Board of Selectmen, and as shown on plans entitled "Street Acceptance Plan North Hill Estates Westford, MA," dated February 7, 2014, Sheets 1 through 5, prepared by LandTech Consultants, said plans on file with the Town Clerk, and to authorize the Board of Selectmen to acquire, by gift, purchase or eminent domain, the fee to or lesser interests in said roads and all related easements.

*Selectmen recommend, Finance Committee recommends, and Planning Board recommends*

**CARE AND CUSTODY OF TOWN LAND**

**ARTICLE 33: Transfer Custody of Parcel on Briarwood Drive from the Tax  
Possession Sale Committee to the Board of Selectmen**

*Board of Selectmen*

**Motion:** *(2/3 Majority Vote Required)*

That the Town transfer the care, custody, control and management of the following parcels of Assessors' Map 45, Parcel 83.20, located on Briarwood Drive from the Tax Possession Sale Committee presently held for the purpose of tax title sale to the Board of Selectmen for general municipal purposes.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 34:</b>	<b>Transfer Custody of Parcel on Flagg Road from the Tax Possession Sale Committee to the Conservation Commission</b>	<i>Conservation Commission</i>
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**Motion:** (2/3 Majority Vote Required)

That the Town transfer the care, custody, control and management of the following parcels of Assessors' Map 21, Parcel 14, located on Flagg Road from the Tax Possession Sale Committee presently held for the purpose of tax title sale to the Conservation Commission to be held for conservation purposes.

*Selectmen recommend and Finance Committee recommends*

<b>ARTICLE 35:</b>	<b>Transfer Custody of Parcel on Hildreth Street from the Tax Possession Sale Committee to the Conservation Commission</b>	<i>Conservation Commission</i>
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**Motion:** (2/3 Majority Vote Required)

That the Town transfer the care, custody, control and management of the following parcels of Assessors' Map 21, Parcel 103, located on Hildreth Street from the Tax Possession Sale Committee presently held for the purpose of tax title sale to the Conservation Commission to be held for conservation purposes.

*Selectmen and Finance Committee to make recommendation on Town Meeting floor*